EMPLOYERS' UNEMPLOYMENT COMPENSATION COUNCIL

A Michigan Non-Profit Corporation

Testimony before the House Committee on Employment Relations, Training and Safety

SBs 171 & SB 174
HBs 4414 & HB 4415
Employment Security – SUTA Dumping

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Good afternoon Mr. Chairman, and members of the Committee. My name is Marlene Jobe, and I am the executive director of the Employers' Unemployment Compensation Council (EUCC).

The EUCC is a statewide, non-profit business organization established in 1947, and is devoted exclusively to representing employer interests to insure an equitable and competitive unemployment insurance system in Michigan.

I am sure by now you have a good sense for just how complicated Michigan unemployment law is. Thank you Mr. Chairman, and the Committee for having this hearing today, and giving me the opportunity to speak on this issue again.

The SUTA dumping legislation being considered has come down to an issue of fairness. As background please know that the unemployment insurance system is designed to operate on the assumption that benefit liabilities are funded in advance of actual payment. This allows for a systematic accumulation of benefit reserves in the state trust fund during periods of economic growth, in order to have sufficient assets to pay unemployment benefits during periods of economic decline.

From the mid 1990s and until 2000, our state UI trust fund accumulated a substantial balance due to a very robust economy with record low unemployment rates. When the recession hit in 2001, Michigan's trust fund was well funded to handle the near record payouts of the last three years.

I bring this up because SUTA dumping disrupts our states experience rated systems ability to systematically accumulate reserves for future periods of economic decline. Employers that SUTA dump walk away from their responsibility to rebuild the trust fund reserves for the next downturn in the economy.

So not to be repetitive to my previous testimony, I will limit my comments to HB 4414. HB 4414 addresses transfers of business between companies where there is not

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substantially common ownership, management, or control. It maintains the current Section 22 language that only looks at the percentage of assets that are moved between the two companies. By only looking at the assets and not the payroll or workforce as in SB 171, HB 4414 continues to allow some forms of SUTA dumping. It treats companies that do not share common ownership, management, or control differently than companies that do share common ownership, management, or control. This is a very important distinction. The UI experience of a given workforce should remain with that workforce.

If an employer with a high unemployment tax rate transfers only the workforce to another employer but maintains the rest of the business, they would be allowed to walk away from their responsibility to repay the UI trust fund for the benefits paid previously to that workforce. By having the opportunity to walk way from the high tax rate, the transferor employer will have a competitive advantage over other employers who don't use SUTA dumping strategies. Employers should be able to restructure their businesses anyway they see fit, but unemployment experience associated with the workforce must be preserved.

The EUCC, has always advocated for sound fair policy for Michigan employers.
Michigan's SUTA dumping prevention law should at the very minimum address the already known SUTA dumping techniques used by employers.

The solution is rather simple and I have attached language to amend HB 4414 that would treat employers when there is not substantially common ownership, management, or control, the same as employers when there is substantially common ownership, management or control. Simply put - the experience associated with the workforce is transferred with the workforce the same as in SB 171.

Thank you for your consideration. I will answer any questions you may have.

Proposed amendment:

If a contributing employer transfers any portion of its workforce to another employer, and there is not substantially common ownership, management, or control of the two employers at the time of the transfer, the unemployment experience attributable to the transferred workforce shall be transferred to the transferee employer. The agency shall recalculate the contribution rates of both employers under section 19 and apply the recalculated rates in the same manner as for a transfer of business under section 22(c)(1) and (D)(1).